

HIGHLIGHTS**Appeals Court Upholds Estimate of Climate Threat to Seals**

Severe risks posed by climate change to seals in waters off the Alaska coast may be almost a century away, but that does not make the estimates of those dangers too speculative for an Endangered Species Act listing, a federal appeals court rules. The ruling by the U.S. Court of Appeals for the Ninth Circuit reverses a district court decision that had invalidated a decision of the National Marine Fisheries Service to list a population of the bearded seal as threatened. **A-6**

Trump, Clinton, and the Fate of Fossil Fuels on Public Lands

The stakes couldn't be higher for energy production on federal lands on Nov. 8—if you believe what the presidential candidates say. Democrat Hillary Clinton would expand a current moratorium on leasing public lands for coal production to include oil and gas as well. Republican Donald Trump would eliminate the coal related-leasing pause altogether. **A-3**

Plastic Bag Ban, Legal Marijuana on California Ballot

The fate of the nation's first-ever statewide ban on single-use plastic carry-out bags is in the hands of California voters. Measures backed by the plastic bag industry seeking to overturn the 2014 law are among four initiatives with environmental implications on California's statewide Nov. 8 ballot. **A-1**

Exxon Mobil Ordered to Turn Over Climate-Change Documents

Exxon Mobil Corp. and its auditors are ordered by a New York judge to hand over to the state's attorney general accounting documents relating to how climate change will affect the company's finances. Justice Barry Ostrager in state court in Manhattan gives Exxon and PricewaterhouseCoopers LLP until Nov. 10 to comply with a subpoena by New York Attorney General Schneiderman, who is probing whether the energy company tried to hide climate-change risks from investors and the public. **A-8**

Radiation Effects in Water Not Disclosed by EPA: Lawsuit

The public is being kept in the dark about what one activist group says are unsafe levels of radioactive contamination federal regulators would allow in drinking water in the event of a nuclear plant accident or other event. Public Employees for Environmental Responsibility sues the EPA in federal court demanding the release of exposure data for new concentrations being set for 110 radionuclides in drinking water supplies. The EPA sends the final version of its emergency response guidance to the White House Office of Management and Budget for review. **A-1**

Three Limited-Use Pesticides More Carcinogenic, WHO Says

Three restricted-use pesticides pose a greater potential to cause human cancer than previously estimated, a United Nations World Health Organization agency says. Meanwhile, a House committee is investigating funding the U.S.

ALSO IN THE NEWS

HAZARDOUS WASTE: A would-be class of Arkansas residents who allege chemical exposure from a hazardous waste storage and treatment facility won't get to keep their case in state court, the U.S. Court of Appeals for the Eighth Circuit holds. **A-9**

SOLID WASTE: A group of Tennessee Valley Authority facilities comprises the majority additions to the EPA's federal facility waste docket. The list, authorized under Superfund statute, aims to codify sites that may warrant addition to the Superfund National Priorities List. **A-9**

ENDANGERED SPECIES: Canada is proposing designating seven species, including beetles, dragonflies and salamanders, as being at risk of eradication so it can develop plans to protect their habitats, and is changing the status of seven designated species to reflect worsening or improving situations. **A-7**

CLIMATE CHANGE: Emissions Reduction Alberta is offering C\$40 million (\$30 million) in a methane-reduction technology competition to help the province cut its emissions 45 percent by 2025. **A-9**

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National Institutes of Health provides the UN cancer research agency. Environmentalists charge that the funding investigation is spurred by an industry effort to shut down science. **A-10**

Legislation Needed to Advance Interim Nuclear Storage: Moniz

Congress needs to give the Energy Department authority to advance development of an interim storage facility for spent commercial nuclear fuel, Energy Secretary Moniz says. Moving quickly on establishing an interim storage facility is a priority for the department, he says. Interim storage is something that could occur separately from a permanent geological repository, which the Nuclear Waste Policy Act stipulated would be located at Yucca Mountain in Nevada. **A-3**

Superfund Report Triggers Senate Republicans' Criticism

A GAO report that is critical of the EPA's Superfund sediment site documentation prompts a sharp rebuke from Republican lawmakers on the Senate Environment and Public Works Committee. The report highlights some EPA flaws in maintaining consistency in its Superfund sediment site reviews and advisory process. **A-6**

UN Urges Biking, Walking to Fight Climate Change

Significant investment in biking and walking infrastructure is needed worldwide to combat climate change and address a highway death toll of more than 1 million people a year, the United Nations Environment Program says. UNEP asks countries to earmark 20 percent of their transportation budgets on infrastructure such as bike lanes and walking paths. It also urges countries to enact and enforce national and local policies for non-motorized transport. **A-8**

Climate May Trigger Next Financial Crisis: U.K. Banker

Climate change could spark the world's next financial crisis, according to Paul Fisher, who retired this year as deputy head of the Bank of England body which supervises the country's banks. "It is potentially a systemic risk," Fisher says in an interview in Sydney. A sudden repricing of assets as a result of climate change "could be the trigger for the next financial crisis," he adds. **A-8**

Wood-Tariffs Fight Splinters Environmental Goods Talks

Trade negotiators working on a multibillion-dollar agreement to cut tariffs on environmental goods disagree as to whether certain wood products should be included in the deal. Much of the Environmental Goods Agreement ministerial meeting focuses on a fight over whether participants should cut tariffs on trade in coniferous wood products used for construction, according to several sources at the meeting in Oslo. **A-5**

Brazil Charges 21 People With Homicide in Iron-Ore Spill

Brazilian federal prosecutors charge 21 executives and upper-level company officials with qualified homicide, murder aggravated by a variety of causes and motivations, in connection with the catastrophic rupture of an iron-ore tailings reservoir that killed 19 people last November. Prosecutors also charge the individuals, as well as their respective companies, with 12 environmental crimes, among them a mudslide, flooding, polluting a river and decimating its fauna and flora, and grave bodily harm, which come with fines. **A-4**

Daily Environment Report

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Documents Available

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News

Drinking Water

Radiation Effects in Tap Water Not Disclosed by EPA, Lawsuit Says

The public is being kept in the dark about what one activist group said are unsafe levels of radioactive contamination federal regulators would allow in drinking water in the event of a nuclear plant accident or other event (*Pub. Emps. for Env'tl. Responsibility v. EPA*, D.D.C., No. 1:16-cv-02112, 10/24/16).

Public Employees for Environmental Responsibility sued the Environmental Protection Agency in federal court Oct. 24, demanding the release of exposure data for new concentrations being set for 110 radionuclides in drinking water supplies.

The EPA sent the final version of its emergency response guidance to the White House Office of Management and Budget for review Oct. 21. Called a protective action guide, the document would establish acceptable levels of radionuclides--radioactive isotopes that occur naturally or come from human-made sources--in drinking water.

In July, the EPA released its draft emergency response guidance and received more than 62,000 comments.

PEER alleged in the lawsuit filed under the Freedom of Information Act that radionuclide levels that the EPA would allow exceed Safe Drinking Water Act standards. Moreover, the group said the guidance sets new concentrations for 110 radionuclides, but the agency has only disclosed the precise levels for four of them.

"It is outrageous that EPA put a plan out for public comment while hiding the key parts of its proposal," Jeff Ruch, the group's executive director, said in a written statement. "EPA should withdraw this irresponsible plan radically hiking allowable radioactivity in our drinking water."

According to information on the agency's website, the protective action guide manual contains radiation dose guidelines that would trigger public safety measures, such as evacuation or staying indoors, to minimize or prevent radiation exposure during a large-scale emergency "when radiation levels could be high enough to cause health effects unless public safety measures are taken."

Public water systems supported the EPA's two-tiered approach in comments submitted on the July draft.

"During such emergencies, the water system resources are likely to be strained," Tracy Mehan, executive director for government affairs for the American Water Works Association, said in the comments. "Water system focus should be on recovering the water system to normal operations as soon as possible, and EPA or state authorities should assume responsibility for communicating with the public."

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Elections

California to Vote on Plastic Bag Ban, Other Environment-Related Measures

The fate of the nation's first-ever statewide ban on single-use plastic carry-out bags is in the hands of California voters.

Measures backed by the plastic bag industry seeking to overturn the 2014 law are among four initiatives with environmental implications on California's statewide Nov. 8 ballot.

Proposition 67 asks voters to repeal or confirm the law (S.B. 270) that was to be phased in beginning July 1, 2015, but suspended after the industry scored enough signatures to qualify the measure for the 2016 ballot. The related Proposition 65 aims to redirect to environmental programs a 10-cent bag fee that currently goes to grocers to cover their costs of implementing the ban.

Also on the ballot are Proposition 53, a proposed constitutional amendment seeking voter approval for any single project financed with a state revenue bond over \$2 billion and Proposition 64, which would legalize recreational use of marijuana that would include regulations to avoid environmental harm from growing cannabis.

Propositions 65 and 67. S.B. 270 marked a victory for environmental groups seeking to eliminate the thin plastic bags grocers and other retailers use. The bags wind up in landfills, litter streets and parks, beaches, mountain and desert areas and wash into storm drains, rivers and streams and the ocean. They threaten wildlife and marine life, Julie Packard, executive director of the Monterey Bay Aquarium, said in the state's voter guide.

The American Progressive Bag Alliance, an industry-backed group, has spent more than \$6.1 million on Propositions 65 and 67 and wants voters to overturn the law, or at the very least, block retailers from keeping the bag fees collected from consumers.

Claims the bags create blight in communities are overblown, Jon Berrier, a spokesman for the alliance, a project of The Society of the Plastic Industry, told Bloomberg BNA. One study showed the bags accounted for only 1 percent of the litter in communities, so "banning them is not going to reduce litter," he said.

'Misguided Law.' "This is a terribly misguided law," Berrier said, calling S.B. 270 "a special interest giveaway to grocers under the guise of an environmental measure."

The law allows grocers to keep millions of dollars year in bag fees, he said. The ban also stands to eliminate 25,000 jobs at plastic bag manufacturers across the country, including 2,000 in California, Berrier said.

Proposition 65 would require the bag fees that retailers charge for recyclable paper bags go to an environmental fund administered by the state's Wildlife Conservation Board. If the ban is repealed and Proposition 65 passes, any future statewide ban would require any bag fees go to the environmental fund.

By the time S.B. 270 was signed into law, more than 100 California cities and counties had already imposed bans. The plastic bag industry fought the bans, often in the courts.

Retailers prefer a single, consistent statewide ban.

150 Local Bans. Now, more than 150 communities, covering more than 40 percent of the state have adopted bag bans, Mark Murray of the Californians Against Waste told Bloomberg BNA.

"Plastic litter has been reduced by 59 percent in parks and on roadsides and 76 percent in creeks and rivers," Murray said. "A yes vote on Prop 67 will finish the job, eliminating the remaining 25 million plastic bags that continue to be generated in California every day."

The "Yes" on Proposition 67 campaign has spent over \$1.9 million, which includes grocers and environmental groups, to preserve the ban.

Proposition 64. Should California voters pass Proposition 64 to legalize the recreational use of marijuana and tax its sale and cultivation, 20 percent of the new revenue would support cleanup and prevention of the environmental damage stemming from "illegal marijuana grows," as the crops are known, including illegal water use and diversion and pesticide pollution.

"Proposition 64 is not just a landmark social-justice movement – it's an important environmental measure that, for the first time, meaningfully addresses the harms caused by illegal marijuana grows and water diversion across California's precious natural landscape," Jason Kinney, a spokesman for the Yes on 64 campaign, told Bloomberg BNA in an e-mail. "That's why it's the first marijuana policy measure ever endorsed by the California League of Conservation Voters and Planning and Conservation League."

The measure would "build upon and expand" environmental protections in recently enacted medical marijuana laws and "provide hundreds of millions of dollars in new funding" to restore lands harmed by illegal cultivation and enforce laws against illegal growing, Kinney said.

Under Proposition 64, all licensees would have to comply with state laws and regulations related to environmental impacts, natural resources protection, water quality, water supply and pesticide use. The measure also would require growers to obtain water use permits and have to use "unique identifier" program to help ensure compliance with laws.

A multi-agency task force initially established to address environmental impacts from the illegal growing of medical marijuana would enforce laws to curb cultivation

illegal cultivation of nonmedical cannabis, under the measure.

The No on 64 campaigns include several law enforcement groups, anti-drug organizations, California Hospital Association and others who say the initiative fails to adequately address public safety concerns, would put local small growers at a competitive disadvantage and expose children to sweets made from marijuana.

Polls show voters favoring Proposition 64.

The Yes on 64 has contributed \$19.8 million to the measure, compared to the "No" campaign's nearly \$2.5 million.

Proposition 53. Proposition 53, the measure requiring voter approval for state-financed projects over \$2 billion, could interfere with the California Water Fix, Gov. Jerry Brown's (D) plan to build two tunnels to move water through the Sacramento-San Joaquin River delta, and a high-speed rail project. It has the backing of a wealthy, retired farmer, Dean "Dino" Cortopassi, an opponent of the two projects who has spent nearly \$5 million on the measure, state financial reporting data shows.

Meanwhile, Brown's 2014 reelection committee, contractors, business and labor groups, local governments, public safety groups and others have contributed over \$11.3 million to fight approval of Proposition 53.

Threat to Water Projects. Opponents say the measure could block important state and local water supply, transportation and other infrastructure projects. The measure also lacks an exemption for emergencies and natural disasters, delaying the ability to rebuild after earthquakes, wildfires and floods, the "No" groups say.

"In November 2014, Californians overwhelmingly passed Proposition 1 to advance a wide range of water projects and vital water infrastructure," Tim Quinn, executive director of the Association of California Water Agencies, told Bloomberg BNA in an e-mail.

"Proposition 53, if passed, will threaten major storage projects and other large scale investments that require the involvement of the state," Quinn said. "Also, because of the legal uncertainty Proposition 53 would clearly create, it could undermine the success of a wide array of other local projects. Requiring a statewide vote for local projects that local citizens support and are willing to pay for robs those communities of their local discretion."

The fiscal effects on state and local governments are unknown, the state Legislative Analyst office said in its review of Proposition 53. The measure is likely to cover only the largest projects that seek financing through revenue bonds. Proposition 53 fails to define a "project," so the courts and state would need to make decisions on what single project would be subject to voter approval, the Legislative Analyst said.

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Elections

Trump, Clinton, and the Fate of Fossil Fuels On Public Lands as an Election-Year Issue

The stakes couldn't be higher for energy production on federal lands Nov. 8—if you believe what the presidential candidates say.

Democrat Hillary Clinton would expand a current moratorium on leasing public lands for coal production to include oil and gas as well.

Republican Donald Trump would eliminate the coal related-leasing pause altogether.

"It's one of the starkest differences between the two candidates," Chris Warren, a spokesman for the American Energy Alliance in Washington, D.C., told Bloomberg BNA.

But the reality of what the Nov. 8 general election could mean for fossil fuel production on public lands may not be so straightforward.

John Cossa, an associate at Beveridge & Diamond PC in Washington, D.C., who previously served as an attorney-adviser at the Interior Department's Office of the Solicitor, said Clinton's promise to expand the moratorium on leasing public lands could be "difficult."

And environmentalist Jeremy Nichols at WildEarth Guardians in Golden, Colo., said he isn't clear on the specifics of where either candidate stands.

The Statements. The Interior Department implemented a federal coal leasing moratorium in January as the agency re-evaluates the environmental impact of its coal program. That included several exemptions, including for metallurgical coal leases and emergency leasing. The leasing moratorium wasn't expected to immediately affect coal production, Interior Secretary Sally Jewell said at the time.

On the heels of this decision, Clinton was asked by 350 Action in February whether she would end the extraction of coal, oil and gas on federal lands. She responded that she wants to impose a moratorium on federal land leasing for coal, oil and gas "because there are legal issues you have to go through."

Trump, meanwhile, has released numerous economic and energy-related plans touting an end to the coal-related federal lands leasing moratorium and pledging to open up more land for fossil fuel extraction.

These would support very different energy futures. Nichols sees an expanded moratorium limiting greenhouse gas emissions from fossil fuel extraction to benefit the environment now and in the future. Warren sees such a moratorium expansion as limiting economic growth from fossil fuels.

Do You Believe It? Nichols calls the contrast in the candidates "a big deal," but he said it is hard to determine where the candidates specifically stand. It is clear that Trump would loosen energy restrictions in some respect, and that Clinton would move to address climate change in some form, he said. But "it is hard to know the contours."

"Certainly, Clinton gives us more hope than Trump," Nichols said, adding that his group is still focused on "emboldening" President Barack Obama before he leaves office in January. After Obama, he said: "There's nobody who's going to come in and automatically give us what we want."

And Cossa told Bloomberg BNA that legally there could be reason to be skeptical of Clinton's oil and gas promise.

The Mineral Leasing Act and the Federal Land Policy and Management Act actually require Interior to lease for oil and gas, Cossa said. That makes a "blanket moratorium" for future oil and gas related public lands leasing more difficult, he said.

Oil, Gas Statutes Unique. However, the Interior secretary does have "wide discretion in deciding how much to lease" or whether to lease land in a given area, Cossa said.

Cossa pointed to the regulations that complement that leasing as equally important to whether fossil fuel extraction will be able to continue, such as pipeline right-of-way requirements.

On the other hand, Trump's promise to rescind the January 2016 secretarial order that put the coal-related public lands leasing pause in place would be relatively easy to execute administratively because "secretarial orders can be defeated by other secretarial orders," Cossa said.

By Rachel Leven

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Radioactive Waste

Legislation Needed to Advance Interim Nuclear Storage, Moniz Says

Congress needs to give the Energy Department authority to advance development of an interim storage facility for spent commercial nuclear fuel, Energy Secretary Ernest Moniz said.

Moniz said that moving quickly on establishing an interim storage facility is a priority for the department. Interim storage is something that could occur separately from a permanent geological repository, which the Nuclear Waste Policy Act stipulated would be located at Yucca Mountain in Nevada.

"It's something that—dependent of geologic repository issues—we can move on quickly and quite literally if Congress acted to give us authorities, and whether public or private interim storage, we could have a pilot facility running in not much more than five years in principle going forward," Moniz said Oct. 24 at a Center for Strategic and International Studies event in Washington called Nuclear Energy at a Crossroads.

Congress would have to introduce legislation to amend the Nuclear Waste Policy Act of 1982 to give the Energy Department authority to take commercial spent nuclear fuel for interim storage prior to the opening of the Yucca Mountain repository.

While the agency said it has all of the authority it needs to contract with a private developer for an interim storage facility for commercial spent fuel, clarification of such authority would be helpful in encouraging private entities to put forward specific proposals, an Energy Department spokeswoman told Bloomberg BNA Oct. 24. Additionally, with regard to a government-owned interim storage facility, the agency

has authority to begin the site selection process but likely couldn't choose a final site without new legislation, she said.

Hope With Energy, Water Appropriations Bill. So far, two House bills (H.R. 3643 and H.R. 4745) and a Senate bill (S. 854) have been introduced this Congress to allow the Energy Department to enter into contracts with utilities that could open the door for interim consolidated waste storage facilities.

However, there is little expectation that the House or Senate will pass stand-alone interim storage bills during the lame-duck session of Congress when members return mid-November. Momentum lies through the energy and water appropriations bill.

The Senate in May passed its version of the energy and water appropriations bill (H.R. 2028), which included language directing the Energy Department to establish one or more government- or privately owned pilot programs on interim storage. It would also grant the Energy Department to use funding from the Nuclear Waste Fund—established to fund Yucca Mountain—to pay for the interim storage facility, subject to appropriations. Meanwhile, the House failed to pass its energy and water appropriations version (H.R. 5055) in May, which doesn't include the Energy Department's pilot program for interim storage.

House and Senate committee staff are currently working on resolving differences between the two versions of the energy and water appropriations bills as part of final year-end funding legislation, a Senate Committee on Appropriations spokesman told Bloomberg BNA Oct. 24.

Rep. John Shimkus (R-Ill.), chairman of the House Energy and Commerce Subcommittee on Environment and the Economy, said while he is supportive of interim storage, he still wants it to be tied to funding to continue the application process for Yucca Mountain as a permanent repository. His subcommittee has authority over the regulation of nuclear waste. The Obama administration has stopped work on the Yucca application.

"While I do not oppose interim storage to the extent that it is cost justified and tied to the completion of the Yucca licensing process, Congress must not raid the Nuclear Waste Fund, which ratepayers have specifically paid into for a permanent repository and nothing else," Shimkus told Bloomberg BNA in an Oct. 24 statement.

Momentum on Private Interim Storage. Separately, there is more action on the private front to develop an interim storage facility. Waste Control Specialists LLC filed an application with the Nuclear Regulatory Commission in April to create a private facility for interim storage of high-level, commercial nuclear waste in West Texas. The commission said it would take approximately three years to review the application.

Also, the commission said it is expecting an application from Holtec International by Nov. 30 for a second interim storage facility in New Mexico.

BY REBECCA KERN

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Enforcement

Brazilian Prosecutors Charge 21 People With Homicide After Ore Spill Into Reservoir

Brazilian federal prosecutors charged 21 executives and upper-level company officials with qualified homicide, murder aggravated by a variety of causes and motivations, in connection with the catastrophic rupture of an iron-ore tailings reservoir that killed 19 people last November.

Prosecutors also charged the individuals, as well as their respective companies, with 12 environmental crimes, among them a mudslide, flooding, polluting a river and decimating its fauna and flora, and grave bodily harm, which come with fines.

"This is the first time that Brazilian federal prosecutors have charged individuals with both homicide and with committing environmental crimes," Eduardo Aguiar, one of the four prosecutors who filed the charges, told Bloomberg BNA Oct. 23.

Company executives had no emergency evacuation plans in place, which made it difficult for victims to escape from harm, he said.

In addition, one aggravating motivation of the qualified homicide charge was financial gain for the companies because the needed reinforcement of the tailings reservoir would have required a temporary stoppage of mining activities, he said.

The accident, which Brazil's Environment Ministry called "the country's worst environmental catastrophe," spilled 62 million cubic meters of tailings in the east-central state of Minas Gerais, triggered a deluge that flattened a village of 600, eight kilometers away and polluted more than 600 kilometers (nearly 400 miles) of the Doce River, a major southeastern waterway.

Possible Sentences. Those charged with homicide by Minas Gerais's federal prosecutors include 16 current or former executives of Samarco Mineracao, the reservoir's operator, and five current or former executives of Samarco's two co-owners, the Brazilian iron-ore giant Vale and the Anglo-American BHP Billiton, on Samarco's board of directors.

The former chief executive of Samarco, Ricardo Vescovi de Aragao, is among the accused, as is Gerd Peter Poppinga, a Vale-appointed member of Samarco's board of directors, according to a statement the Minas Gerais federal prosecutors' office released Oct. 20. Among those charged are two Americans, one Briton, one South African, one Australian and one Frenchman, the statement said.

If convicted, the 21 executives and officials each face fines and up to 54 years in prison; 45 years of that sentence would be related to the homicide and nine would be linked to environmental crimes, Aguiar said. The three companies also face fines.

VOGBR, a geotechnical auditor that does reservoir safety inspection, and one of its employees with presenting false reservoir stability reports also were charged.

If a federal court judge decides to try the case, the individuals and companies will face a jury trial because of the homicide charges, Aguiar said. He said that it will likely take the judge months to decide whether bring

the case before a jury because of the 272-page accusation and thousands of pages of accompanying documentation.

Previous Fines. In January, Brazil's Federal Police indicted Samarco, its president and six other Samarco officials; Vale; BHP Billiton; and VOGBR on charges of environmental crimes linked to the accident. But it was up to Minas Gerais federal prosecutors to decide whether to file criminal charges against companies and officials named in the indictment.

"Federal prosecutors decided to greatly increase the number of those charged and to increase the severity of the charges against them to include qualified homicide because our nearly one-year investigation went far deeper into the causes of the catastrophe and who should be held responsible for it, than the two-month Federal Police inquiry did," Aguiar told Bloomberg BNA.

Samarco, Vale and BHP Billiton issued statements refuting or repudiating federal prosecutor accusations. Samarco said that it "had no previous knowledge of the risks posed by the [reservoir] structure." Vale said "prosecutors ignored evidence that executives were unaware of the risks posed by the reservoir."

In August, a Brazilian appeals court annulled a settlement that required Samarco and its co-owners to pay 4.9 billion reais (\$1.57 billion) through 2018 for damages caused by the rupture of the reservoir because those affected by the catastrophe were not consulted when the agreement was being negotiated.

The ruling also reinstated an earlier-dismissed, 20 billion real (\$6.4 billion) lawsuit against Samarco and its co-owners brought by Brazil's legal office and the states of Minas Gerais and Espirito Santo.

In a separate action in May, Minas Gerais's federal prosecutors, by refusing to join the settlement, filed their own civil suit against Samarco, Vale and BHP Billiton seeking 155 billion reais (\$49.7 billion) in damages. A judge has not yet ruled on the lawsuit.

By MICHAEL KEPP

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A Minas Gerais federal prosecutor's office statement about the criminal charges filed is available, in Portuguese, at <http://src.bna.com/jAq>.

Trade

Fight Over Wood Tariffs Splinters Talks In Geneva on Trade of Environmental Goods

Trade negotiators working on a multibillion-dollar agreement to cut tariffs on environmental goods disagree as to whether certain wood products should be included in the deal.

Much of this weekend's Environmental Goods Agreement (EGA) ministerial meeting focused on a fight over whether participants should cut tariffs on trade in coniferous wood products used for construction, according to several sources at the meeting in Oslo.

Japan argued that cutting tariffs on trade in wood products would lead to unsustainable forestry practices

and undermine international efforts to crack down on illegal logging.

Canada, New Zealand, and Norway countered that sustainable harvesting of coniferous wood products involves a negligible percentage of illegal logging when compared to trade in deciduous trees from certain tropical regions.

Japan is among the world's top importers of wood products and in 2015. Canada, New Zealand, and Norway collectively exported about \$1.4 billion of wood products to Japan, according to World Bank statistics.

If EGA negotiators fail to resolve their conflict over wood and about a dozen other disagreements in the coming weeks, it may jeopardize an accord that could boost global exports of environmental goods — like solar panels and water filters — by \$119 billion annually.

Pedal to the Metal. The European Union and China continue to disagree over Beijing's demand for tariff cuts on more than a dozen bicycle parts, negotiators said.

The EU—which is home to cycling companies Peugeot, and Bianchi—fears that the deal could open the door to a flood of cheap Chinese bicycles and bicycle parts.

Though the EU extended until 2018 its antidumping measures on Chinese bicycle imports there are no such trade restrictions on a handful of Chinese bicycle products valued at more than \$200 million per year.

European Union Ambassador Marc Vanheukelen told Bloomberg BNA that the fight over bicycles pales in comparison to China's various other offensive interests in EGA products that he said collectively exceed \$40 billion per year.

The Chinese delegation did not respond to Bloomberg BNA's request for comment.

Final List Coming. Next month, the Australian chair of the EGA negotiations will present a final list of EGA products from among the roughly 300 proposed products in 15 categories.

Negotiators will then meet in November to further winnow down the list of products, address any staging proposals and resolve China's concerns about free-riders to the deal.

"We're now left with about 15 problems," Vanheukelen told Bloomberg BNA. "We need to reduce these to three or four or five problems for the ministers to handle" during their Dec. 3-4 ministerial meeting in Geneva.

"This is doable, but we need to crack harder nuts at a sustained pace each week," Vanheukelen said.

By BRYCE BASCHUK

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Superfund

Report on Superfund Sediment Sites Triggers Senate Republicans' Criticism

A Government Accountability Office report critical of the EPA's Superfund sediment site documentation prompted a sharp rebuke Oct. 24 from Republican lawmakers on the Senate Environment and Public Works Committee.

The report highlighted some Environmental Protection Agency flaws in maintaining consistency in its Superfund sediment site reviews and advisory process.

Agency regional correspondence with technical experts on risk management steps at specific hazardous waste sites varied significantly in the amount of detail provided, and regions failed on a few occasions to submit correspondence on cleanup remedies at all, the report said.

"It is troubling to learn that EPA has been sloppy in documenting how these sites should be cleaned up using the required risk-management principles," committee Chairman James Inhofe (R-Okla.) said in a statement. "These sites are often very expensive and technically challenging to clean up, and the process that regional staff should be following—but aren't—was intended to get information to EPA's technical experts in time to make informed recommendations and decisions."

Sediment sites are waterways contaminated through industrial operations. Polychlorinated biphenyls and heavy metals are frequently found at such sites.

Correspondence Scrutinized. The report's authors cautioned that they did not study the "technical information" included in the EPA regional correspondence, but said regions touched on all risk management principles in documents linked to 16 of the 18 sites scrutinized in the report.

Those assessment documents were sent to the Contaminated Sediments Technical Advisory Group (CSTAG). Agency regions failed to submit that correspondence on the two outlying sites, the report said.

The report added that the EPA hasn't clearly described documentation requirements for regions on "update meetings" with the advisory group. The meetings generally are designed to ensure that agency cleanup decisions are sound and that remediation is progressing.

Republican Rebuke. "Proper documentation of EPA's decision-making process is necessary to make certain the agency is being a good steward of these taxpayer dollars," Sen. Mike Rounds (R-S.D.), chairman of the EPW Superfund subcommittee, said in a statement. "By not following its own rules, the EPA continues to perpetuate a culture of distrust among local landowners and citizens." Rounds and Inhofe commissioned the study in May 2015.

The statement said committee staff reviewed documents that show agency regions are unscrupulously analyzing the way Superfund cleanup plans can best address the risks posed by contaminants. A committee spokeswoman told Bloomberg BNA that the documents could not be released.

Criticism 'Mild' in Report: Activists. Despite the rebuke from Inhofe and Rounds, the report doesn't point to glaring missteps by agency regional officials, said Lenny Siegel, executive director at the Mountain View, Calif.-based Center for Public Environmental Oversight.

"It seems that GAO's critique was rather mild," Siegel told Bloomberg BNA. "Sediments are a risk management challenge because capping remedies may seem to work, but when there is an unusual weather event, contamination spreads."

Assistant Administrator of EPA's Office of Land and Emergency Management, Mathy Stanislaus, generally agreed with the report findings but suggested the advisory group clarify information needs, according to a letter submitted to a top GAO official.

"To ensure that CSTAG's information needs are met for update meetings, we recommend that the EPA Administrator direct CSTAG to clarify in its operating procedures what type of information and documentation, if any, should be prepared by regional offices and provided to CSTAG members in advance of these meetings," Stanislaus wrote Sept. 1. His letter is included on page 61 of the report.

By BRIAN DABBS

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Endangered Species

Appeals Court Upholds Agency Estimate Of Long-Range Climate Threat to Seals

Severe risks posed by climate change to seals in waters off the Alaska coast may be almost a century away, but that does not make the estimates of those dangers too speculative for an Endangered Species Act listing, a federal appeals court ruled Oct. 24 (*Alaska Oil and Gas Ass'n v. Pritzker*, 9th Cir., No. 14-35806, 10/24/16).

The ruling by the U.S. Court of Appeals for the Ninth Circuit reversed a district court decision that had invalidated a decision of the National Marine Fisheries Service to list a population of the bearded seal as threatened. The threatened population of the seal is found in the Bering, Chukchi, Beaufort and East Siberian seas.

"NMFS has provided a reasonable explanation, based on the best available scientific and commercial data, for relying on those projections in its listing decision," the court said. "NMFS's projections for the second-half of the century are also reasonable, scientifically sound, and supported by evidence. There is no debate that temperatures will continue to increase over the remainder of the century and that the effects will be particularly acute in the Arctic."

Two oil and gas industry associations and the state of Alaska took the NMFS to court over the listing decision. Oil companies have at times explored for oil in the Beaufort and Chukchi seas and can face more difficult permitting approvals whenever a species is listed as threatened or endangered in an area where the companies hope to operate.

The American Petroleum Institute said it was reviewing the decision.

The NMFS listed the population as threatened because of estimates that climate change could bring the population to the point of being endangered by about 2095 as sea ice dwindles from global warming. Ocean acidification, the increase in marine carbonate molecules because of increasing carbon dioxide, was also noted as a potential threat to the food web needed by the seals.

The service has not yet proposed a designation of critical habitat for the bearded seal population, but it will do so at some point in the future, it said.

Distant But 'Foreseeable.' The Alaska Oil and Gas Association and the American Petroleum Institute had argued that the long-range estimates were based on too little data and too much supposition, failing to meet the Endangered Species Act requirement for estimates based on the "reasonably foreseeable future." The district court agreed, but a three-judge panel of the appeals court Oct. 24 overturned that finding.

"Although Plaintiffs frame their arguments as challenging long-term climate projections, they seek to undermine NMFS's use of climate change projections as the basis for ESA listings," Judge Richard A. Paez said in the opinion.

The appeals court said it would follow the precedent established in the Ninth Circuit when litigation challenged the listing of the polar bear as a threatened species. The court held that the climate models of the Intergovernmental Panel on Climate Change constituted the best available science for supporting estimates about the fate of species reliant on sea ice. The IPCC is an inter-governmental scientific research body that operates under the auspices of the United Nations.

The listing of the polar bear as threatened in 2008 was followed by a designation of 187,157 square miles of critical habitat, mostly areas of sea ice. That did not prevent oil and gas work in the Beaufort and Chukchi seas, though it provided companies with another worrisome factor in permitting.

Similarly, four Arctic subspecies of the ringed seal were declared threatened in 2012, and in 2014 the NMFS proposed a critical habitat designation for the subspecies that the agency said would have only a "modest" impact on oil and gas development plans. For the ringed seal as for the polar bear and the bearded seal, the most prominent threat was a projected dwindling of sea ice because of climate change.

Marine Mammals Already Protected. Marine mammals including seals and polar bears already enjoy considerable protections under the Marine Mammal Protection Act, which reduces the likely impact of an Endangered Species Act listing or a critical habitat designation.

Oil and gas companies and other companies are obligated to minimize their harm to marine mammals. Royal Dutch Shell Plc found its exploratory drilling effort in the Chukchi Sea in 2015 hampered to some degree by some restrictions to protect marine mammals, including Pacific walrus and polar bears.

Shell nevertheless managed to drill another exploratory well in 2015. Its problems in the Arctic stemmed more from other factors—notably the short drilling window between seasons when sea ice would cover the drill site.

By ALAN KOVSKI

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The decision in Alaska Oil and Gas Ass'n v. Pritzker is available at <http://src.bna.com/jzT>

Endangered Species

Canada Proposes Designating Seven Species At-Risk to Develop Habitat Protection Plans

Canada is proposing designating seven species, including beetles, dragonflies and salamanders, as being at risk of eradication so it can develop plans to protect their habitats, and is changing the status of seven designated species to reflect worsening or improving situations.

Designating species under the Species at Risk Act requires the government to develop plans to increase populations and protect critical habitat, Environment and Climate Change Canada said Oct. 22. The Committee on the Status of Endangered Wildlife in Canada recommended the revisions, the department said in a draft order published in the Canada Gazette, Part I.

Species newly proposed for designation are: two dragonflies, the Hine's emerald and the Skillet Clubtail; Northern dusky salamander; American burying beetle; Hungerford's crawling water beetle; Blue Felt Lichen; and Eastern baccharis, a perennial salt marsh shrub.

Species proposed for higher designations are: the Jefferson salamander because many populations have disappeared and remaining ones are threatened by development; spring salamander, as well as adding the Adirondack/Appalachian and Carolinian populations, because of lower habitat quality; and Butler's garter-snake because of declining populations due to farming and urbanization.

Species proposed for lower designations due to new or growing populations are: the dwarf lake iris; perennial herbs goldencrest and Pitcher's thistle; and the Purple twayblade, a perennial orchid.

The proposed order is open to public comment through Nov. 21. After the final version is published in the Canada Gazette, Part II, the government then would be required to develop recovery plans within two years for any species included in the final order.

By PETER MENYASZ

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The proposed order is available at <http://src.bna.com/jzO>.

Climate Change

Exxon Mobil Corp., Auditors Ordered To Turn Over Climate Change Documents

Exxon Mobil Corp. and its auditors were ordered by a New York judge to hand over to the state's attorney general accounting documents relating to how climate change will affect its finances.

Justice Barry Ostrager in state court in Manhattan on Oct. 24 gave Exxon and PricewaterhouseCoopers LLP until Nov. 10 to comply with a subpoena by New York Attorney General Eric Schneiderman, who is probing whether the energy company tried to hide climate-change risks from investors and the public. Schneiderman sued Exxon and PwC on Oct. 14 in a bid to force them to comply with a subpoena issued in August.

"I don't find this credible," Ostrager said in response to Exxon's explanation for a delay in responding to the subpoena. "Exxon and its outside counsel have the resources to review these documents with considerable expedition. It seems to me that we could deal."

Schneiderman seeks files related to PwC's audits of Exxon, including documents about accounting and reporting of oil and gas reserves, evaluation of assets for potential impairment charges or write-downs, energy price projections and projected carbon-cost estimates, according to court papers.

The judge is hearing arguments about whether Exxon can claim accountant-client confidentiality under Texas law for some of the documents. Lawyers for the attorney general contend no such privilege exists in Texas, and that only New York law can be applied to the case.

BY ERIK LARSON

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International Climate

UN Urges Investment in Biking, Walking To Address Climate Change, Traffic Deaths

Significant investment in biking and walking infrastructure is needed worldwide to combat climate change and address a highway death toll of more than 1 million people a year, the United Nations Environment Program said.

UNEP asked countries to earmark 20 percent of their transportation budgets on cycling and walking infrastructure, like bike lanes and walking paths, in a report released Oct. 20. It also urged countries to enact and enforce national and local policies for non-motorized transport.

"For instance, South Africa, Tanzania, Chile, China and India have drafted high-quality engineering and construction designs for bicycle and pedestrian facilities but these are still regarded as guidelines rather than requirements," said the report.

Motor vehicles are responsible for a quarter of global carbon dioxide emissions and is the fastest growing sector in greenhouse gas emissions worldwide, said UNEP Executive Director Erik Solheim.

In addition: "People are risking their lives every time they leave their homes, as about 50 percent of victims of traffic accidents globally are pedestrians, cyclists and motorcyclists," he said.

The report surveyed the progress toward safer walking and cycling infrastructure in 20 low- to middle-income countries across Africa, Asia and Latin America, where compared with high-income countries, twice as many people die in road traffic accidents.

BY WACHIRA KIGOTHO

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The UNEP report is available at <http://src.bna.com/jzD>.

International Climate

Climate Change May Trigger Next Financial Crisis: U.K. Banker

Climate change could spark the world's next financial crisis, according to Paul Fisher, who retired this year as deputy head of the Bank of England body which supervises the country's banks.

"It is potentially a systemic risk," Fisher said Oct. 24 in an interview in Sydney. A sudden repricing of assets as a result of climate change "could be the trigger for the next financial crisis," he added.

Fisher, a 26-year-veteran of the U.K. central bank, pointed to the renewed fall in sterling earlier this month, after the government set out a timetable for leaving the European Union, as an example of the way that prices can shift suddenly. "That is exactly the sort of event you might get with climate change," said Fisher, formerly deputy head of the U.K.'s Prudential Regulation Authority.

Signs that governments are growing increasingly serious about tackling climate change suggest that businesses need to be ready for greater regulation, Fisher said.

China and the U.S. agreed at the Group of 20 meeting in Hangzhou last month to ratify the Paris accord designed to limit global warming, bringing two of the world's largest emitters of carbon pollution on board with an agreement to control temperature increases. A paper presented to the Hangzhou G-20 meeting by the U.K.'s Cambridge Centre for Sustainable Finance urged financial institutions to improve the way they assess climate risks.

"You don't need to believe in climate change, you don't need to believe that it is man-made," Fisher said. "You just need to believe that governments are going to do stuff and that is going to affect your business. And then it is a material risk."

Valuation Risk. Risks associated with climate change come both from the effect on valuations of the transition toward a lower carbon economy, as well as from the cost of adapting if global warming isn't checked, according to Andrew Gray, an investment manager at

AustralianSuper, the country's largest pension fund. "Climate change is a genuine investment risk," Gray said at a Citigroup Inc. conference in Sydney last week.

Fisher said there's a possibility of unexpected moves in financial markets as a result of climate change. He warned of the chance of a "system-wide repricing of assets happening quite suddenly."

BY EMILY CADMAN

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Solid Waste

Tennessee Valley Authority Facilities Added to EPA Hazardous Waste List

A group of Tennessee Valley Authority facilities comprises the majority of Oct. 24 additions to the EPA's federal facility waste docket.

The Environmental Protection Agency updated its Federal Agency Hazardous Waste Compliance Docket, adding eight authority facilities along with five other federal facilities. The list, authorized under Superfund statute, aims to codify sites that may warrant addition to the Superfund National Priorities List.

Several hydropower facilities are now added to the docket, namely the Watts Bar Dam, dams at the Fort Patrick Henry Reservoir, the Great Falls Dam and the Fontana Dam. The authority is a utility arm of the federal government but receives no funding from tax revenue.

The additions are merely EPA updates, and the TVA "continues to decrease the quantity of hazardous waste," TVA spokesman Scott Brooks told Bloomberg BNA.

"TVA has facilities that are listed as capable of generating both small and large amounts of waste," Brooks said. "The additions to the list do not reflect an uptick in waste generation nor addition of new facilities."

The other Oct. 24 additions are Interior Department, Transportation Department, Air Force and U.S. Postal Service facilities.

BY BRIAN DABBS

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Hazardous Waste

Lawsuit Alleging Chemical Exposure From Waste Site Won't Stay in State Court

A would-be class of Arkansas residents who allege chemical exposure from a hazardous waste storage and treatment facility won't get to keep their case in state court, the U.S. Court of Appeals for the Eighth Circuit held (*Gibson v. Clean Harbors Env'tl.*

Servs., Inc., 2016 BL 352541, 8th Cir., No. 16-8012, 10/24/16).

Defendant Clean Harbors Environmental Services Inc. removed the case to federal court more than 30 days after receiving a \$6.5 million settlement "recommendation" in a letter from plaintiffs' counsel, Judge Roger L. Wollman's opinion for the court said.

But the letter hadn't triggered the Class Action Fairness Act's 30-day removal clock, at 28 U.S.C. § 1446(b)(3), because it didn't "unambiguously" alert Clean Harbors that the \$5 million CAFA damages threshold for federal jurisdiction was met, the court said.

The plaintiffs' original complaint had stipulated that the total damages of the putative class didn't exceed \$5 million, required for federal jurisdiction under CAFA.

The 30-day clock didn't start running until Clean Harbors received the plaintiffs' expert report, which offered additional details on the theory of damages and class size, the court said.

Judge Diana E. Murphy dissented, categorizing the letter as "an explicit settlement demand" that should have started the 30-day clock.

The plaintiffs' claims are based on a 2012 incident in which a "large cloud of chlorinated pool chemicals" was released over a Clean Harbors facility in Union County, Ark.

Local authorities evacuated part of the city of El Dorado, Ark., in response, the complaint said.

People exposed to the chemicals suffered "nose bleeds, coughing, difficulty breathing, dizziness, burning eyes, irritation of membranes and discomfort," it said.

Judge James B. Loken joined the opinion.

Robert Lamar Depper Jr. of El Dorado, Ark., Price Law Firm, Stone & Sawyer, McMath & Woods, and Allen P. Roberts of Camden, Ark., represented the plaintiffs.

Barber Law Firm represented Clean Harbor.

BY JEFFREY D. KOELEMAY

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Full text of the decision is available at http://www.bloomberglaw.com/public/document/Gibson_v_Clean_Harbors_Env'tl_Servs_Inc_No_168012_2016_BL_352541_8.

Climate Change

Alberta Competition Offers \$30 Million For Methane-Reducing Technology Ideas

Emissions Reduction Alberta is offering C\$40 million (\$30 million) in a methane-reduction technology competition to help the province cut its emissions 45 percent by 2025.

The main sources for methane emissions in Alberta are agriculture, mining, oil and gas, and waste management, according to Emissions Reduction Alberta, formerly the Climate Change and Emissions Management Corporation. Emissions Reduction Alberta receives

grants from governments to fulfill its mandate, spokeswoman Celia Sollows told Bloomberg BNA Oct. 21.

Minister Responsible for the Climate Change Office Shannon Phillips said the funding will go toward developing advanced technologies that can accurately detect and quantify emissions to help address climate change.

The challenge is open to anyone and submissions will be accepted from Oct. 28 to Dec. 15.

The Emissions Reduction Alberta Methane Challenge is available at <http://src.bna.com/jzy>.

Pesticides

Three Limited-Use Pesticides More Carcinogenic Amid Hill Queries: WHO

Three restricted-use pesticides pose a greater potential to cause human cancer than previously estimated, a United Nations World Health Organization agency said Oct. 24.

Meanwhile, a House Committee is investigating funding the U.S. National Institutes of Health provides the UN cancer research agency, as environmentalists charge that the funding investigation is spurred by an industry effort to shut down science.

An expert panel convened by WHO's International Agency for Research on Cancer, or IARC, announced Oct. 24 upgrades of the carcinogenic potential previously estimated for three pesticides. Use of all three pesticides is restricted under the Stockholm Convention on Persistent Organic Pollutants. The pesticides and classifications are:

- pentachlorophenol, which the Stockholm Convention said can be used only for utility poles, is "carcinogenic to humans," an upgrade from its previous "possibly" carcinogenic to humans classification; and

- aldrin and dieldrin, which the Stockholm Convention allows to control a few pests, are "probably" carcinogenic to humans, which in 1987 were found to be inconclusive.

The panel classified a fourth chemical, 2,4,6-trichlorophenol—a wood preservative and leather treatment (CAS No. 88-06-2)—as "possibly" carcinogenic to humans—the same conclusion a previous IARC panel reached in 1987.

A fifth chemical, 3,3',4,4'-tetrachloroazobenzene (CAS No. 14047-09-07), which is unintentionally formed during the production and degradation of certain herbicides including propanil, linuron and diruon, is "probably" carcinogenic to humans, the IARC panel said.

Limited Uses. The panel's specific findings are unlikely to cause pesticide manufacturers heartburn due to the limited uses or production of the five chemicals.

In a statement, the pesticide trade association CropLife America said it is disappointed that IARC continued its hazard-based approach to the assessment of crop protection chemicals.

"Over the past 18 months, the IARC approach to the assessment of the hazard of specific cancers from chemical substances has been decried by a number of governments, and as well as by industry associations," CropLife said.

A hazard classification means a chemical could cause a particular health effect, in this case cancer. The hazard classification does not address the ways people are exposed or the concentrations of the chemical to which people could be exposed. Yet that exposure information could play a critical role in determining if the chemical increased the public's risk of cancer.

In March 2015, IARC classified glyphosate, the most widely used pesticide in the world and forms part of Monsanto's blockbuster Roundup products—in addition to pesticides made by other manufacturers—as a "probably" carcinogenic to humans.

The U.S. Environmental Protection Agency concluded in an issue paper released Sept. 16 that glyphosate is "unlikely" to cause cancer. The European Food Safety Authority (EFSA) said in November 2015 that glyphosate was "unlikely to pose a carcinogenic hazard to humans," although dozens of scientists faulted that conclusion in a commentary published March 3 in the *Journal of Epidemiology and Community Health*.

House Committee Investigation. IARC's classification of glyphosate and its October 2015 classification of red meat as a probable human carcinogen prompted the U.S. House Committee on Oversight and Government Reform launched an investigation in September into the National Institutes of Health's funding of IARC.

The committee's letter says IARC's hazard classifications cause "controversy and alarm," and influence U.S. policies while avoiding the scrutiny afforded to domestic science advisory committees. For example, the state of California considers IARC an authoritative agency when crafting state chemical policies and in labeling requirements.

The committee sought details on the National Health Institute's funding of the World Health Organization agency, saying database searches of the institutes' grants show they have provided IARC millions of dollars since 1992.

This funding supports a range of IARC activities including the maintenance of cancer registries in developing countries, research on the mechanisms by which tumors occur and the expert panels that classify the carcinogenicity of chemicals, pesticides and other environmental exposures and lifestyle factors, according to Bloomberg BNA's research. According to the Department of Health and Human Services, the National Cancer Institute has funded IARC since 1982 with sufficient money to support two working groups a year that produce cancer classification reviews. In fiscal year 2015, NCI provided \$859,000 in support for IARC cancer reviews.

A committee aide told Bloomberg BNA Oct. 18 that the investigation has resulted in gathering some information from NIH but expects that more will be forthcoming.

In an Oct. 5 letter IARC sent to National Institutes of Health Director Francis Collins, IARC's director, Christopher Wild, defended the "scientific rigor, standardized and transparent process" the agency uses to reach its hazard classifications.

Wild also defended the science the agency used in its classification of glyphosate in separate Oct. 4 letter to EPA Administrator Gina McCarthy.

'Dangerous Precedent': Environmentalists. Jennifer Sass, a senior scientist with the Natural Resources Defense Council, spoke with Bloomberg BNA after the House Committee launched its investigation.

"It's a dangerous precedent," Sass said. CropLife America, the American Meat Institute, and the American Chemistry Council, which wrote an Oct. 18 letter to House Oversight Committee Chairman Jason Chaffetz (R-Utah) commending the committee's investigation, are trying to shut down science and deny the public information it has a right to know, she said.

IARC's hazard classifications are difficult to communicate, Sass acknowledged. Companies in the supply chain have different perspectives than pesticide manufacturers do, Sass said. She referenced a widely circulated e-mail from a U.S. Food and Drug Administration scientist concerning research that found trace levels of glyphosate in honey. The presence of glyphosate was a technical violation, but not a safety risk, the e-mail said.

Food producers that use honey want to know about hazards, "they want to sell safe products," Sass said.

BY PAT RIZZUTO

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IARC's Oct. 24 announcement is available at <http://src.bna.com/jAc>.

The House Oversight Committee's letter is available at <http://src.bna.com/jAw>.

CORRECTION

The article "Consequences of Deepwater Horizon Oil Spill Ongoing" in the Oct. 19 report said the Bureau of Safety and Environmental Enforcement intended to issue a third version of its rulemaking on safety and environmental management systems for offshore oil and gas operations, according to a BSEE official. The official was mistaken. The agency said Oct. 24 it will consider updating its requirements for safety and environmental management systems after the American Petroleum Institute revises its Recommended Practice 75, an industry set of guidelines in support of such safety systems. The online version of the story has been corrected.

Regulatory Agenda

OCTOBER 25 FEDERAL REGISTER

The following entries are summaries from the Oct. 25, 2016, Federal Register (Vol. 81, No. 206).

Environmental Protection Agency

AIR QUALITY

Clean Air Act Citizen Suit Consent Decree

Notice of the EPA announces a proposed consent decree in *Air Alliance Houston v. McCarthy* (Civil Action No. 1:16-cv-01998), filed with the U.S. District Court for the District of Columbia. The consent decree addresses allegations that the EPA failed to perform nondiscretionary duties related to reviewing and revising the emissions factor for volatile organic compounds (VOCs) from elevated and enclosed ground flares at natural gas production facilities at least once every three years (Natural Gas VOC emissions factor). The consent decree establishes a June 5, 2017, deadline for the EPA to review and propose revisions to the Natural Gas VOC emissions factor and a Feb. 5, 2018, deadline to issue final revisions or a final determination that changes are unnecessary. The consent decree also establishes a framework for resolving any request for costs of litigation. Comments are due Nov. 25, 2016. Contact: Susan Stahle; EPA, Office of General Counsel; 202-564-1272; stahle.susan@epa.gov

BROWNFIELDS

State and Tribal Response Programs Grant Funding Guidance

Notice of the EPA announces the availability of guidance related to grant funding to supplement state and tribal response programs, authorized under CERCLA Section 128(a), for the assessment, cleanup and redevelopment of brownfields sites and other sites with actual or perceived contamination. The guidance addresses eligibility for funding, use of funding, grant mechanisms, procedures for awarding funding, the allocation system for distribution funding, and terms and reporting under the grants. The agency will consider funding requests of up to \$1 million per state or tribe for fiscal year 2017. Grant requests will be accepted from Nov. 1, 2016, through Dec. 31, 2016. The action is effective Nov. 1, 2016. Contact: EPA, Office of Brownfields and Land Revitalization; 202-566-2745

DRINKING WATER

Biologically Based Dose-Response Model for Perchlorate in Drinking Water/Peer Review

Notice of the EPA announces an extension of the comment period for a Sept. 30, 2016, notice (81 FR 67350) regarding peer review materials to inform decision-making on the development of a maximum contami-

nant level goal and national primary drinking water regulation for perchlorate. The materials include the draft biologically based dose-response model and accompanying draft model report developed to predict the effect of perchlorate on thyroid hormone concentrations in pregnant and lactating mothers and in infants. The notice specified that the model and report will be reviewed by an expert peer review panel and that the panelists will consider the public comments. Comments now are due Nov. 25, 2016. Contact: Russ Perkinson; EPA, Office of Ground Water and Drinking Water; 202-564-4901; perkinson.russ@epa.gov

FUEL EFFICIENCY

Medium- and Heavy-Duty Vehicle Greenhouse Gas Emissions and Fuel Economy Standards

Final rule of the EPA and the National Highway Traffic Safety Administration amends regulations under 40 CFR 9 through 1068 (nonconsecutive) and 49 CFR 523, 534, 535 and 538 to increase the federal greenhouse gas (GHG) and corporate average fuel economy (CAFE) standards for new on-road medium- and heavy-duty vehicles (MDVs and HDVs) and engines built in model years 2018 through 2027. The rule specifies phased-in fuel consumption and carbon dioxide emission standards for combination tractors, trailers used in combination with those tractors, heavy-duty pickup trucks and vans, and vocational vehicles and sets forth separate standards for engines that power combination tractors and vocational vehicles for an estimated 9 percent reduction in carbon dioxide emissions by model year 2027. The rule also sets forth hydrofluorocarbon standards to control leakage from air conditioning systems in vocational vehicles, nitrous oxide and methane standards for heavy-duty engines, and non-GHG gas emission standards related to the use of diesel auxiliary power units installed in new tractors. In addition, the rule clarifies the classification of natural gas engines and other gaseous-fueled heavy-duty engines and makes technical revisions to non-GHG emission requirements for light-duty motor vehicles, marine diesel engines, and other nonroad engines and equipment. Finally, the rule requires engines from donor vehicles installed in new glider vehicles to meet the emission standards applicable in the year of assembly of the new glider vehicle. The EPA GHG emissions standards for trailers are effective beginning with the 2018 model year, interim standards for other vehicles are effective beginning with model years 2021 and 2024, and terminal standards are effective beginning with model year 2027. The rule is effective Dec. 27, 2016. Contact: Tad Wysor; EPA, Office of Transportation and Air Quality; 734-214-4332; wysor.tad@epa.gov

HAZARDOUS WASTE

Oklahoma/Hazardous Waste Management Program

OCTOBER 25 FEDERAL REGISTER

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Direct final rule of the EPA amends regulations under 40 CFR 272.1851 and Appendix A to codify the prior approval (78 FR 377439; 05/23/2013) of the state's hazardous waste management program and to incorporate by reference authorized provisions of the state's regulations. The rule is effective Dec. 27, 2016, unless adverse comments are received by Nov. 25, 2016. Contact: Alima Patterson; EPA Region 6, Multimedia Planning and Permitting Division; 214-665-8533; patterson.alima@epa.gov

HAZARDOUS WASTE**Oklahoma/Hazardous Waste Management Program**

Proposed rule of the EPA amends regulations under 40 CFR 272.1851 and Appendix A to codify the prior approval (78 FR 51497; 05/29/2013) of the state's hazardous waste management program and to incorporate by reference authorized provisions of the state's regulations. A concurrent direct final rule adopts the amendments, effective Dec. 27, 2016. Comments are due Nov. 25, 2016. Contact: Alima Patterson; EPA Region 6, Multimedia Planning and Permitting Division; 214-665-8533; patterson.alima@epa.gov

PESTICIDES**Pesticide Tolerances/Spirotetramat**

Final rule of the EPA amends regulations under 40 CFR 180.641 to establish a tolerance for residues of the insecticide spirotetramat in or on asparagus at 0.10 parts per million. The rule is in response to a petition filed by Bayer CropScience LP, of Research Triangle Park, N.C. The rule is effective Oct. 25, 2016. Objections and hearing requests are due Dec. 27, 2016. Contact: Michael Goodis; EPA, Office of Pesticide Programs; 703-305-7090; RDfRNotices@epa.gov

Nuclear Regulatory Commission**NUCLEAR ENERGY****ACRS Planning and Procedures Subcommittee Meeting**

Notice of the Nuclear Regulatory Commission announces a meeting of the Advisory Committee on Reactor Safeguards Subcommittee on Planning and Procedures to discuss proposed ACRS activities and related matters. The meeting is scheduled for Nov. 3, 2016, in Rockville, Md. Comments are due Nov. 3, 2016. Contact: Quynh Nguyen; NRC; 301-415-5844; Quynh.Nguyen@nrc.gov

RADIATION**ACRS Digital I&C Subcommittee Meeting**

Notice of the Nuclear Regulatory Commission announces a meeting of the Advisory Committee on Reactor Safeguards Subcommittee on Digital Instrumentation Control Systems (Digital I&C). The subcommittee will review a proposed rule on cybersecurity for fuel cycle facilities. The meeting is scheduled for Nov. 2, 2016, in Rockville, Md. Comments are due Nov. 2, 2016.

Contact: Christina Antonescu; NRC; 301-415-6792; Christina.Antonescu@nrc.gov

RADIOACTIVE WASTE**List of Approved Spent Fuel Storage Casks**

Direct final rule of the Nuclear Regulatory Commission amends regulations under 10 CFR 72.214 to revise the Holtec International HI-STORM Underground Maximum Capacity (UMAX) Canister Storage System listing within the list of approved spent fuel storage casks to include Amendment No. 2 to Certificate of Compliance No. 1040. The amendment adds new 16X16B and 16X16C fuel types to approved contents and updates 15X151 fuel types to include those with guide tubes. The amendment also allows up to 37 undamaged 16X16A fuel assemblies in damaged fuel containers (DFCs) for the multipurpose canister-37 permitted for storage in the HI-STORM UMAX Canister Storage System. In addition, the amendment includes an updated heat load pattern for loading up to 37 intact 16X16A fuel assemblies in DFCs and clarifies the term "top surface pad." The rule is effective Jan. 9, 2017, unless adverse comments are received by Nov. 25, 2016. Contact: Gregory Trussell; NRC, Office of Nuclear Material Safety and Safeguards; 301-415-6445; Gregory.Trussell@nrc.gov

RADIOACTIVE WASTE**List of Approved Spent Fuel Storage Casks**

Proposed rule of the Nuclear Regulatory Commission amends regulations under 10 CFR 72.214 to revise the Holtec International HI-STORM Underground Maximum Capacity (UMAX) Canister Storage System listing within the list of approved spent fuel storage casks to include Amendment No. 2 to Certificate of Compliance No. 1040. The amendment adds new 16X16B and 16X16C fuel types to approved contents and updates 15X151 fuel types to include those with guide tubes. The amendment also allows up to 37 undamaged 16X16A fuel assemblies in damaged fuel containers (DFCs) for the multipurpose canister-37 permitted for storage in the HI-STORM UMAX Canister Storage System. In addition, the amendment includes an updated heat load pattern for loading up to 37 intact 16X16A fuel assemblies in DFCs and clarifies the term "top surface pad." A concurrent direct final rule adopts the amendments, effective Jan. 9, 2017. Comments are due Nov. 25, 2016. Contact: Gregory Trussell; NRC, Office of Nuclear Material Safety and Safeguards; 301-415-6445; Gregory.Trussell@nrc.gov

Office of Energy Efficiency and Renewable Energy**ENERGY EFFICIENCY****Supporting Clean Energy Startups**

Notice of the Department of Energy, Office of Energy Efficiency and Renewable Energy, announces a request for information concerning industry and investment partnerships for scaling innovation to support clean energy startups. The notice requests input concerning Technology-to-Market team facilitation of a more efficient clean energy innovation ecosystem, including unaddressed challenges faced by early stage clean energy

start-ups and by investors and industry partners that might facilitate the transition of new technologies to the marketplace. Comments are due Nov. 14, 2016. Contact: Johanna Wolfson; DOE, Office of Energy Efficiency and Renewable Energy; 202-586-1040; T2M@ee.doe.gov

Pipeline and Hazardous Materials Safety Administration

HAZARDOUS MATERIALS TRANSPORTATION

Applications for Special Permits

Notice of the Pipeline and Hazardous Materials Safety Administration announces the receipt of 15 applications for new special permits related to specified hazardous materials transportation regulations (49 CFR 172, 173, 175, 177, 178 and 180). Comments are due Nov. 25, 2016. Contact: Ryan Paquet; PHMSA, Office of Hazardous Materials Approvals and Permits; 202-366-4535

HAZARDOUS MATERIALS TRANSPORTATION

Applications for Modification of Special Permits

Notice of the Pipeline and Hazardous Materials Safety Administration announces the receipt of 11 applications for modification of special permits related to specified hazardous materials transportation regulations (49 CFR 62, 172, 173, 175, 180, 209, 212, 301, 302, 304 and 320). Comments are due Nov. 25, 2016. Contact: Ryan Paquet; PHMSA, Office of Hazardous Materials Approvals and Permits; 202-366-4535

HAZARDOUS MATERIALS TRANSPORTATION

Applications for Modification of Special Permits

Notice of the Pipeline and Hazardous Materials Safety Administration announces the receipt of three applications for modification of special permits related to specified hazardous materials transportation regulations (49 CFR 172, 177, 192, 302 and 304). Comments are due Nov. 25, 2016. Contact: Ryan Paquet; PHMSA, Office of Hazardous Materials Approvals and Permits; 202-366-4535

HAZARDOUS MATERIALS TRANSPORTATION

Applications for Special Permits

Notice of the Pipeline and Hazardous Materials Safety Administration announces the receipt of 12 applications for new special permits related to specified hazardous materials transportation regulations (49 CFR 172, 173, 175, 178 and 179). Comments are due Nov. 25, 2016. Contact: Ryan Paquet; PHMSA, Office of Hazardous Materials Approvals and Permits; 202-366-4535

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Environmental Protection Agency

AIR QUALITY (81 Fed. Reg. 73,105)

Registration of Fuels and Fuel Additives

Notice of the EPA announces the submission of a continuing information collection request to the OMB regarding the registration of fuels and fuel additives. The collection addresses requirements for manufacturers and importers of motor-vehicle gasoline, motor-vehicle diesel fuel and additives to those fuels to provide a chemical description of the fuel or additive and certain technical and marketing information to the EPA prior to their introduction into commerce (40 CFR 79). The collection also addresses requirements for manufacturers to submit periodic reports on production volume. Comments are due Nov. 23, 2016. Contact: James Caldwell; EPA, Office of Transportation and Air Quality; 202-343-2800; caldwell.jim@epa.gov

AIR QUALITY (81 Fed. Reg. 73,105)

Clean Air Act Advisory Committee

Notice of the EPA announces the renewal of the charter for the Clean Air Act Advisory Committee for an additional two years. The committee provides advice and recommendations to the agency on issues associated with implementation of the Clean Air Act. Nominations are due Oct. 31, 2016. Contact: Tamara Saltman; EPA, Office of Air and Radiation; 202-564-2781; saltman.tamara@epa.gov

HAZARDOUS AIR POLLUTANT EMISSION STANDARDS (81 Fed. Reg. 73,095)

NESHAP for Off-Site Waste and Recovery Operations

Notice of the EPA announces the submission of a continuing information collection request to the OMB regarding the NESHAP for off-site waste and recovery operations (40 CFR 63, Subpart DD). The collection addresses requirements for owners and operators of affected facilities to submit initial notifications, performance tests, and periodic reports and results and to maintain records of periods of startup, shutdown or malfunction or when the monitoring system is inoperative. Comments are due Nov. 23, 2016. Contact: Patrick Yellin; EPA, Office of Compliance; 202-564-2970; yellin.patrick@epa.gov

HAZARDOUS AIR POLLUTANT EMISSION STANDARDS (81 Fed. Reg. 73,094)

NESHAP for Petroleum Refineries

Notice of the EPA announces the submission of a continuing information collection request to the OMB regarding the NESHAP for catalytic cracking units, catalytic reforming units and sulfur recovery units at petroleum refineries (40 CFR 63, Subpart UUU). The collection addresses requirements for owners and operators of affected facilities to submit initial notifications, performance tests, and periodic reports and results and to maintain records of periods of startup, shutdown or malfunction or when the monitoring system is inoperative. Comments are due Nov. 23, 2016. Contact: Patrick Yellin; EPA, Office of Compliance; 202-564-2970; yellin.patrick@epa.gov

HAZARDOUS AIR POLLUTANT EMISSION STANDARDS (81 Fed. Reg. 73,104)

NESHAP for the Manufacture of Amino/Phenolic Resins

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Notice of the EPA announces the submission of a continuing information collection request to the OMB regarding the NESHAP for the manufacture of amino/phenolic resins (40 CFR 63, Subpart OOO). The collection addresses requirements for owners and operators of affected facilities to submit initial notifications, performance tests, and periodic reports and results and to maintain records of periods of startup, shutdown or malfunction or when the monitoring system is inoperative. Comments are due Nov. 23, 2016. Contact: Patrick Yellin; EPA, Office of Compliance; 202-564-2970; yellin.patrick@epa.gov

HAZARDOUS AIR POLLUTANT EMISSION STANDARDS (81 Fed. Reg. 73,094)

NESHAP for Plywood and Composite Wood Products

Notice of the EPA announces the submission of a continuing information collection request to the OMB regarding the NESHAP for plywood and composite wood products (40 CFR 63, Subpart DDDD). The collection addresses requirements for owners and operators of affected facilities to submit initial notifications, performance tests, and periodic reports and results and to maintain records of periods of startup, shutdown or malfunction or when the monitoring system is inoperative. Comments are due Nov. 23, 2016. Contact: Patrick Yellin; EPA, Office of Compliance; 202-564-2970; yellin.patrick@epa.gov

SUPERFUND (81 Fed. Reg. 73,096)

Federal Hazardous Waste Facilities List

Notice of the EPA announces the availability of the 30th update of the Federal Agency Hazardous Waste Compliance Docket to identify federal facilities that manage hazardous waste or from which a reportable quantity of hazardous substances has been released. The notice identifies facilities added since the March 3, 2016, update (81 FR 11212) and corrections to and deletions from the list. The list of 2,318 facilities is current as of Oct. 17, 2016. Contact: Benjamin Simes; EPA, Federal Facilities Restoration and Reuse Office; 703-603-0055; Simes.Benjamin@epa.gov

Federal Energy Regulatory Commission

PIPELINES (81 Fed. Reg. 73,092)

FERC Information Collections

Notice of the Federal Energy Regulatory Commission announces the submission of two continuing information collection requests to the OMB. The first collection addresses the form used to document pipeline affiliate and nonregulated parent cash management or money pool programs (Form FERC-604). The second collection addresses communication of operational information between natural gas pipelines and electric transmission operators (Form FERC-923). Comments are due Nov. 23, 2016. Contact: Ellen Brown; FERC; 202-502-8663; DataClearance@FERC.gov

Department of the Interior

WATER MANAGEMENT (81 Fed. Reg. 73,139)

California/Central Valley Project Improvement Act Water Management Plans

Notice of the Department of the Interior, Bureau of Reclamation, announces the availability of the Central Valley Project Improvement Act water management plans for the Colusa County Water District, the James Irrigation District, the Lindmore Irrigation District and the Sycamore Mutual Water Co., all of California. The plans include a description of the district, an inventory of water resources, best management practices (BMPs) for agricultural contractors, BMPs for urban contractors, plan implementation information, exemption procedures, regional criteria and five-year revisions. Comments are due Nov. 23, 2016. Contact: Charlene Steimen; Bureau of Reclamation; 916-978-5281

Office of the U.S. Trade Representative

ENVIRONMENTAL IMPACT ASSESSMENT (81 Fed. Reg. 73,191)

WTO Environmental Goods Agreement

Notice of the Office of the U.S. Trade Representative announces a request for comments concerning the interim environmental review of the World Trade Organization Environmental Goods Agreement. The multilateral agreement would remove global tariffs on 54 clean technology products, including wind turbines, carbon dioxide scrubbers, water treatment filters, composting systems, solar panels and solar water heaters. Comments are due Nov. 21, 2016. Contact: William McElnea; Office of the U.S. Trade Representative; 202-395-7320

Transportation Security Administration

HAZARDOUS MATERIALS TRANSPORTATION (81 Fed. Reg. 73,126)

Transportation Worker Identification Credential Program

Notice announces the intention of the Transportation Security Administration to seek OMB approval for a revised information collection request regarding the Transportation Worker Identification Credential (TWIC®) program. The collection gathers data from TWIC® applicants to conduct security threat assessments for access to secure areas of maritime facilities and vessels. The revisions provide for expanded use of biographic and biometric information and permit applicants to participate in the hazardous materials endorsement program without requiring an additional background check. The revisions also remove the requirement to collect information about the extended expiration date TWIC® and reduce the standard enrollment fee to \$125.25, effective Oct. 1, 2016. Comments are due Dec. 23, 2016. Contact: Christina Walsh; TSA, Office of Information Technology; 571-227-2062

U.S. Geological Survey

WATER MANAGEMENT (81 Fed. Reg.)

State Water Resources Research Institute Program

Notice of the Department of the Interior, U.S. Geological Survey, announces the submission of a revised information collection request to the OMB regarding the State Water Resources Research Institute Program. The collection addresses application and reporting require-

ments for the national competitive grants administered under the Water Resources Act for water resources research institutes or centers to promote research, training, information dissemination and other activities to address water problems and issues of a regional or interstate nature beyond those of concern only to a single state. Comments are due Nov. 23, 2016. Contact: Earl Greene; USGS, Office of External Research; 443-498-5505; eagreene@usgs.gov

Comment Deadlines on Major Regulations & Other Actions

Chemicals	EPA notice on a draft Integrated Risk Information System (IRIS) assessment of ethyl tertiary butyl ether (81 Fed. Reg. 60,351; Docket No. EPA-HQ-ORD-2009-0229; Sept. 1, 2016)	Oct. 31, 2016	Contact Keith Salazar in EPA's National Center for Environmental Assessment at (703) 347-0278
Air Pollution	EPA notice on the development of standards to reduce methane emissions from existing oil and gas facilities (81 Fed. Reg. 66,962; Docket No. EPA-HQ-OAR-2016-0204; Sept. 29, 2016)	Oct. 31, 2016	Contact Brenda Shine in EPA's Office of Air Quality Planning and Standards at (919) 541-3608
Energy Efficiency	Department of Energy proposed rule to revise the definition of "general service lamp" (GSL) in connection with a March 17, 2016, proposed rule to establish new and revised energy conservation standards for GSLs (10 CFR 429.56, 430.2 and 430.3)(81 Fed. Reg. 14,528; Docket No. EE-2013-BT-STD-0051; Oct. 18, 2016)	Nov. 8, 2016	Contact Lucy deButts in DOE's Office of Energy Efficiency and Renewable Energy at (202) 287-1604
Endangered Species	Bureau of Land Management notice on a draft Gunnison sage-grouse rangewide draft resource management plan amendment and draft environmental impact statement for Colorado and Utah (81 Fed. Reg. 53,503; Aug. 12, 2016)	Nov. 10, 2016	Contact Roger Sayre in BLM's Colorado Southwest District Office at (303) 239-3709
Air Pollution	EPA proposed rule to revise greenhouse gas provisions of the Prevention of Significant Deterioration (PSD) and Title V Permitting Programs (40 CFR 51.166, 52.21, 60.5360a, 60.5515, 60.5705, 70.2 and 71.2; 40 CFR 52.1233, 52.2305 and 52.2590)(81 Fed. Reg. 68,110; Docket No. EPA-HQ-OAR-2015-0355; Oct. 3, 2016)	Dec. 2, 2016	Contact Carrie Wheeler in EPA's Air Quality Policy Division at (919) 541-9771
Air Pollution	EPA proposed rule to revise the petroleum refinery NESHAP maximum achievable control technology (MACT) 1 and 2 standards in response to petitions for reconsideration of a Dec. 1, 2015, final rule (40 CFR 63.640, 63.648 and 63.670)(81 Fed. Reg. 75,178; 81 Fed. Reg. 71,661; Docket No. EPA-HQ-OAR-2010-0682; Oct. 18, 2016)	Dec. 2, 2016	Contact Brenda Shine in EPA's Sector Policies and Programs Division at (919) 541-3608
Water Pollution	EPA advance notice of proposed rulemaking to establish federal baseline water quality standards (WQS) for certain Indian reservation waters (40 CFR 131)(81 Fed. Reg. 66,900; Docket No. EPA-HQ-OW-2016-0405; Sept. 29, 2016).	Dec. 28, 2016	Contact Mary Lou Soscia at Environmental Protection Agency Region 10 at (503) 326-5873